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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

MADISON SQUARES ANAHEIM HILLS,

Plaintiff and Respondent,

v.

S & J ELECTRIC et al.,

Defendants and Appellants.

G033095

(Super. Ct. No. 00CC10378)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Gregory Munoz, Judge. Reversed and remanded.

Jeffrey W. Virden; Law Office of Jerome Edelman and Jerome Edelman for Defendants and Appellants.

Hagan & Associates, Cara J. Hagan and Shannon C. Williams for Plaintiff and Respondent.

* * *

Defendants appeal from a judgment on the ground there was insufficient evidence to support it and because the court failed to provide a statement of decision after

they requested one. We have no need to reach the first issue because we agree the court should have rendered a statement of decision and reverse and remand on that ground.

Because that is the basis of this decision, there is no need to set out the underlying facts or a summary of the seven-day bench trial. Suffice it to say that after completion of the trial, the court prepared and mailed a detailed tentative decision. It stated that "[t]he following will be the Statement of Decision . . . unless within 10 days a party requests a formal Statement of Decision as to one or more controverted issues, in which case, the prevailing party shall prepare a Statement of Decision pursuant to California Rules of Court[, rule] 232 and California Code of Civil Procedure section 632."

Defendants timely filed a document entitled "Defendant/Cross-complain[ants'] Objection to Court's Tentative Decision." (Bold and capitalization omitted.) The document stated: "Defendants hereby object to the Court's Tentative Decision (served June 2, 2003) as set forth herein. [¶] Pursuant to Code of Civil Procedure Section 632 and DeArmond v. Southern Pacific Co [*sic*] (1967) 253 Col.P pg 2d [*sic*] 648, the Court is requested to explain the following portion of its ruling, so that a reviewing court may understand the factual and legal basis for the Court's decision[.]" By minute order the court ruled as follows: "The Court has received, read and considered Defendant/Cross-Complainant's Objection to Court's Tentative Decision. Said objections [are] overruled." Subsequently, the court entered judgment in favor of plaintiff "[b]ased on the Court's findings as set forth in the Tentative Decision under [California Rules of Court,] Rule 232(a), which by the terms therein became the final Statement of Decision . . . ."

Code of Civil Procedure section 632 provides that upon request of a party, "[t]he court shall issue a statement of decision explaining the factual and legal basis for its decision . . . . The request must be made within 10 days after the court announces a tentative decision . . . [and] shall specify those controverted issues as to which the party is

requesting a statement of decision." The only issue before us is whether the document was in fact a proper request for a statement of decision. We determine that it was, and the court's failure to render a statement was reversible error. (*Gruendl v. Oewel Partnership, Inc.* (1997) 55 Cal.App.4th 654, 659.)

Plaintiff concurs with the trial court's treatment of the document, characterizing it as an objection to the tentative ruling. There is no dispute the document was labeled an objection and its first sentence reiterates that sentiment. However, in the next sentence, defendants ask the court, "[p]ursuant to Code of Civil Procedure Section 632[,] . . . to explain the following portions of its ruling, so that a reviewing court may understand the factual and legal basis for the Court's decision[.]"

Granted, this request is not a model of clarity, but it gets the job done. It refers to section 632, which is the section authorizing statements of decision, and paraphrases its language requiring the trial court to "explain[] the factual and legal basis for its decision . . . ." (Code Civ. Proc., § 632.) This is the essence of a request for a statement of decision. The caption of the document is not controlling.

While the facts are somewhat opposite, the rationale of *Miramar Hotel Corp. v. Frank B. Hall & Co.* (1985) 163 Cal.App.3d 1126, cited by both parties, applies. There the trial court issued a brief minute order, entitled "Statement of Decision," that set out three general and conclusory findings, and ordered judgment to be prepared. The trial court ignored the subsequent request for a statement of decision. On appeal, the court ruled the minute order was not a proper statement of decision, despite its caption. (*Id.* at p. 1129.) Likewise, here, the fact the document is titled "objection" does not abrogate the contents, which request a statement of decision.

Plaintiff protests the pleading is not a request, but that defendants "skipped that step entirely and moved on to the objection process." But plaintiff cites no authority, and we found none, holding that if objections are included in a request for a statement of decision, the request may be denied.

In addition, the fact that defendants may have included unreasonable questions in their request does not eliminate the duty to render a statement of decision. *People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159 Cal.App.3d 509, overruled on other grounds in *Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th 163, 184-185, is instructive. There, the defendant's request for a statement of decision sought to have the court respond to more than 75 questions and spell out findings on uncontroverted issues. The appellate court ruled "[t]he trial court was not required to provide specific answers so long as the findings in the statement of decision fairly disclose the court's determination of all material issues. [Citation.]" (*People v. Casa Blanca Convalescent Homes, Inc., supra,* 159 Cal.App.3d at p. 525.)

We also reject plaintiff's argument that California Rules of Court, rule 232 somehow invalidates the request. To the contrary, it supports our decision. It provides that in a tentative decision, a court may "direct that the tentative decision shall be the statement of decision unless within ten days either party specifies controverted issues or makes proposals not covered in the tentative decision."

Nor does the fact that the tentative decision was thorough relieve the court of the requirement to issue a statement of decision when requested. This is especially true given the language of the tentative, spelling out the option of requesting a statement of decision. We acknowledge that one purpose of a statement of decision is "'to make the case easily reviewable on appeal by exhibiting the exact grounds upon which judgment rests.'" (*Whittington v. McKinney* (1991) 234 Cal.App.3d 123, 127, italics omitted.) And the tentative here appears to do that. But a tentative decision is not binding on the trial court and can be modified prior to entry of judgment. (Cal. Rules of Court, rule 232(a).)

Pursuant to rule 232, the tentative itself gave the parties the right to ask for a statement of decision, and another "purpose of the statement of decision is to allow the trial court to reconsider and modify its tentative decision, and to make whatever findings

are necessary to support its intended judgment. [Citation.]" (Wegner et al., Cal. Practice Guide: Civil Trials and Evidence (The Rutter Group 2004) ¶ 16:94, p. 16-22.) It is not unreasonable to believe the court could have changed a ruling in the process of finalizing a statement of decision. But, even if it did not, given the request and the requirement to issue it, the detailed tentative was no substitute for the statement of decision.

Ironically, the fact that the tentative ruling was so thorough would have made preparation of a statement of decision quick and easy and eliminated the issue on appeal. Then, perhaps, there would have been no appeal (*Miramar Hotel Corp. v. Frank B. Hall & Co., supra,* 163 Cal.App.3d at p. 1129 [statement of decision "may render obvious the futility of an appeal"]) or we could have dealt with the substantive issues without a trip back to the trial court.

The judgment is reversed and the matter remanded for the preparation of a statement of decision. Appellant is entitled to costs on appeal.

RYLAARSDAM, ACTING P. J.

WE CONCUR:

BEDSWORTH, J.

FYBEL, J.